

PATENT

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December 21, 2006      Shelley R. Salinsky  
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Chris Greener  
Application No. : 09/678,430  
Filed : October 2, 2000  
For : SYSTEM AND METHOD FOR PROVIDING WORLD WIDE WEB-BASED SURVEY CREATION, DESIGN, DEPLOYMENT, AND RESULT COMPILATION AND TRACKING

Examiner : Alford W. Kindred  
Art Unit : 2172  
Docket No. : 61375-10  
Date : December 21, 2006

Board of Patent Appeals and Interferences  
Washington, DC 20231

APPELLANT'S BRIEF (37 C.F.R. § 41.37)

This brief is in furtherance of the Notice of Appeal, filed in this case on September 21, 2006. The fees required under Section 1.17(c), and a request for extension of time for filing this brief and fees therefor, are submitted with this Appeal Brief.

Appellants appeal from the final rejection of claims 33 – 40 and 42 – 60 of the above-identified application. This Brief on Appeal is submitted in response to the Office Action of May 22, 2006 (referred to herein as “the Office Action”), rejecting the claims.

The appeal is proper because the claims have been rejected twice.

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## I. REAL PARTY IN INTEREST

The real party in interest in the above-identified application is MarketTools, Inc., a Delaware corporation, the assignee of record, which has its principal place of business at One Belvedere Place, Mill Valley, CA 94941.

## II. RELATED APPEALS AND INTERFERENCES

No other appeals or interferences will directly affect, be affected by, or have a bearing on the Board of Patent Appeals and Interferences' decision in the pending appeal.

### III. STATUS OF CLAIMS

Claims 1 – 32 and 41 were previously cancelled. Claims 33 – 40 and 42 - 60 stand rejected and are the claims on appeal. No other claims are pending.

#### IV. STATUS OF AMENDMENTS

All amendments have been entered prior to the final rejection. No amendments have been submitted subsequent to the final rejection.

## V. SUMMARY OF CLAIMED SUBJECT MATTER

Aspects address a readily accessible way of creating surveys and managing their distribution via network access, such as via the Internet (page. 1, lines 14 – 16). A network browser has access over a network to create surveys (page 9, lines 15 – 17), to manage and edit lists of chosen recipients of e-mails associated with one of the surveys, and to initiate distribution of the e-mails (page 4, lines 1 – 5; page 14, lines 17 – 20). The network browser runs on a survey design machine (108 of Figure 3) separate from where the survey and e-mail recipient lists are stored (page 9, lines 1- 5). Further aspects include the e-mail containing a network link that provides access to the survey (page 15, lines 14 – 16 and 22 – 25). The creating a survey can include resizing web content objects to be added during survey creation, perform survey background design, select font of text used, or select color scheme of a survey (page 5, lines 22 – 24). Other creation or modification can include adding matrix questions, constant sum questions, spinner questions (page 12, lines 22 – 24), progress bars, and rules (page 5, lines 18 – 22).

With particular regard to the claims, claims 33 and 52 regard a survey creation engine and claims 47, 53, and 54 regarding a method that uses the survey creation engine that is used to create surveys to be stored in a database. The survey creation engine runs on a host machine. Page 9, Lines 6 – 15. Also involved is a survey design machine that allows a user through browser access to use the survey creation engine to create a survey. Page 9, Lines 15 – 17. Also involved is an e-mail list management facility to manage a list of recipients of a survey and accessed through the survey design machine. Page 11, Lines 14 – 18. Claims 33, 53, and 54 further use e-mail that contain a network link to provide access to the survey through other than mail protocols. Page 15, Lines 14 – 16.

Claims 55, 57, 58, 59, and 60 are directed to a system that includes a database (page 9, line 7 and Figure 1), a host machine (page 9, line 6 and Figure 1) having a survey creation engine (page 11, line 4 and Figure 4) and access to store created

surveys on the database, and a survey design machine (page 9, line 9, and Figure 1) that can access the survey creation engine through a network browser to design surveys. In addition, claim 55 further includes the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to resize web content objects (page 4, line 19) to be added during survey creation. In addition, claim 57 includes the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to select progress bars (page 5, line 22) to be added by the survey creation engine. In addition, claim 58 includes the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to perform survey background design (page 5, line 24). In addition, claim 59 includes the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to select font of text (page 5, line 24) used of a survey created by the survey creation engine. In addition, claim 60 includes the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to select color scheme (page 5, line 24) of a survey created by the survey creation engine.



## VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether Claims 33 – 40 and 42 – 46 and 56 are unpatentable under 35 U.S.C. 103(a) as being unpatentable over U.S. Published Application No. 2002/0128898 A1 to Smith et al. (referred to herein as "Smith"), in view of U.S. Published Application No. 2004/0169675 A1 to Beck (referred to herein as "Beck").

Whether Claim 47 – 55 and 57 – 60 are unpatentable under 35 U.S.C. 103(a) as being unpatentable over U.S. Published Application No. 2002/0128898 A1 to Smith et al. (referred to herein as "Smith"), in view of U.S. Published Application No. 2004/0169675 A1 to Beck (referred to herein as "Beck"), and further in view of U.S. Published Application No. 2001/0052009 A1 to Desai et al (referred to herein as "Desai").

## VII. ARGUMENTS

Background. Under the M.P.E.P standards, any alleged motivation to combine or modify must be objectively verifiable. The M.P.E.P recognizes the pitfalls associated with the tendency to subconsciously use impermissible "hindsight" when an examiner attempts to establish such a rationale. The M.P.E.P has set forth measures to ensure against the likelihood of such impermissible use of hindsight. Under 35 U.S.C. § 103, the examiner must step backward in time and into the shoes worn by the hypothetical 'person of ordinary skill in the art' when the invention was unknown and just before it was made. In view of all factual information, the examiner must then make a determination whether the claimed invention 'as a whole' would have been obvious at that time to that person. M.P.E.P. § 2142.

- i. Arguments Heading I – The burden of proof has not been met to sustain the rejections of claims 33 – 40 and 42 – 46 and 56 under 35 U.S.C. 103(a) as being unpatentable over U.S. Published Application No. 2002/0128898 A1 to Smith et al. (referred to herein as "Smith"), in view of U.S. Published Application No. 2004/0169675 A1 to Beck (referred to herein as "Beck").

### a. Arguments Subheading I - A: Independent Claim 33

Smith teaches presentation of surveys to survey takers (known as "network user clients" in Smith) through web page banners that contain hypertext links to surveys. By selecting a banner, a network user client is automatically provided with a corresponding survey. Paragraph [0058] Smith provides access to surveys through web page banners either by statically mapping or dynamically mapping between web site locations for the web page banners and groups of potential survey takers. Static mappings are relatively fixed between web site locations for web page banners and types of survey takers. For instance, a static mapping may exist between a target group of kids and a specific portion of a Yahoo site or other kid related web site locations. Paragraph [0119]

A dynamic mapping delivers to a network user a web page that is a banner for a survey and is not particularly dependent upon a certain web site location. The survey is chosen for the network user based upon acquiring data that identifies the network user, locating within an information repository or database prior to information that was obtained about the network user, and determining a target group to which the network user belongs based upon the information in the repository. Paragraph [0120] It should be remembered that regardless of whether static mapping or dynamic mapping is used, the survey takers access their surveys through hyperlinks found in banners on web pages of predetermined web sites.

The banners are either statically or dynamically created, but nevertheless, in Smith, the banners are always used by the survey takers to access their surveys. In other words, for static banners, it is assumed that survey takers of a particular type will naturally gravitate toward certain web sites so that particular static banners are placed on web pages of these web sites in anticipation that these survey takers will eventually visit the web site. Paragraph [0119] For dynamic banners, it is assumed that potential survey takers will visit certain web sites either on their own or through solicitation and once at the web site it can be determined which particular banner to present to the potential survey taker in order that the potential survey taker can access an appropriate survey. Paragraph [0120]

When a survey is fielded to a particular target group, the results are gathered, processed, and analyzed to generate survey data that reflects the survey results. In Smith, the survey data can then be sent by e-mail to the survey creator. It must be emphasized that although Smith mentions that the survey data from processed survey results can be sent by e-mail to the survey creator, this is much different than using e-mail to send an access to the actual survey itself as discussed further below for the presently claimed invention. In Smith, obtained to the survey itself is not sent to a survey taker through an e-mail but is rather accessed by the survey taker through a hyperlink located on a banner of a web page found on a web site. Paragraph [0110]

Beck teaches new client survey taking via e-mail because the new clients do not have access to an enterprise web page. Paragraph [0118] Beck also teaches an e-mail module that pushes pre-scripted e-mails to clients containing instructions or other resolute material associated with a purchase product or service. Paragraph [0387] This teaching of e-mail use in Beck does not make sense to combine with Smith as a secondary reference. In Smith, the survey takers most assuredly have access to web pages to use banners on the web pages to access surveys.

In Beck, survey takers most assuredly do not have access to web pages, which is the whole point of using e-mail for surveys in Beck and is just the opposite condition from Smith. Furthermore, Smith's model for survey access through web page banners has no use for Beck's access. The teaching in Beck is unnecessary and irrelevant to Smith. The other reference to e-mail in Beck has nothing to do with taking surveys so there is also no reason to consider combining this with Smith.

In summary, Smith and/or Beck alone or in combination do not teach or suggest claim 33 regarding a survey creation engine configured to create surveys, a survey design machine configured to communicate with the survey creation engine . . . to create a survey . . . and an e-mail list management facility configured to provide management capability through the network browser of the survey design machine of a list of e-mail recipients chosen to receive an e-mail . . . containing a network link to provide access to the survey for the client computer. Yet, the Office Action puts forth a bare assertion that Smith in combination with Beck teaches such.

In addition, the Office Action's suggestion to combine Smith in view of Beck is not found either explicitly and/or implicitly in Smith and/or Beck. Furthermore, there is no sworn affidavit by the Examiner found in the Office Action attesting to the veracity of the Examiner's personal expert knowledge of the level of understanding regarding the subject matter of one of ordinary skill in the art at the time of invention associated with issues of obviousness in forming the combination of Smith in view of Beck. Consequently, the suggestion offered by the Office Action to combine Smith in view of Beck is purely a bare assertion since the explanation offered by the Office Action as to

the reasonableness of the suggestion to combine is given without any attestation by signed affidavit as to the fact that the suggestion and explanation came from a properly qualified expert.

Given the use of bare assertion without substantive support for supporting argumentation in the rejection of claim 33, the Office Action has failed to support a prima facie case of obviousness for claim 33. Consequently, it is believed that claim 33 stands in condition for allowance.

- ii. Arguments Heading II – The burden of proof has not been met to sustain the rejections of claims 47 – 55 and 57 – 60 under 35 U.S.C. 103(a) as being unpatentable over U.S. Published Application No. 2002/0128898 A1 to Smith et al. (referred to herein as “Smith”), in view of U.S. Published Application No. 2004/0169675 A1 to Beck (referred to herein as “Beck”), and further in view of U.S. Published Application No. 2001/0052009 A1 to Desai et al (referred to herein as “Desai”).

a. Arguments Subheading II - A. Independent Claim 47

Claim 47 was rejected, according to the Office Action, “on grounds corresponding to the arguments given above for rejected claim 33.” Since the arguments by the Office Action in rejecting claim 33 used bare assertion involving inaccurate representation of the content of Smith and Beck and an unattested opinion regarding a proposed suggestion to combine Smith and Beck as discussed above, the arguments of the Office Action regarding claim 33 have similarly failed to support a prima facie case of obviousness to reject claim 47.

Furthermore, in rejecting claim 47, the Office Action inaccurately represents paragraphs [0033] – [0035] of Desai by stating that these paragraphs teach a portion of claim 47 regarding using a survey design computer via the network to edit a list of e-mail recipients stored on the host computer wherein some of the recipients are to be sent an e-mail containing a network link to access a survey. Contrary to this inaccurate

statement by the Office Action, paragraphs [0033] – [0035] only teach forwarding a questionnaire to a client. Furthermore, the Applicant could not find anywhere in Desai the teaching of the portion of claim 33 as stated to exist by the Office Action. Consequently, the Office Action's use of Desai in an attempt to supply teaching for the portion of claim 33 is merely a bare assertion that such a teaching exists in Desai.

Furthermore, the Office Action's suggestion to combine Smith in view of Beck and further in view of Desai is not found either explicitly and/or implicitly in Smith and/or Beck and/or Desai. In addition, there is no sworn affidavit by the Examiner found in the Office Action attesting to the veracity of the Examiner's personal expert knowledge of the level of understanding regarding the subject matter of one of ordinary skill in the art at the time of invention associated with issues of obviousness in forming the combination of Smith in view of Beck, further in view of Desai. Consequently, the suggestion offered by the Office Action to combine Smith in view of Beck, further in view of Desai with regard to the claim 47 rejection is purely a bare assertion on these additional grounds as well as those above since the explanation offered by the Office Action as to the reasonableness of the suggestion to combine is given without any attestation by signed affidavit as to the fact that the suggestion and explanation came from a properly qualified expert.

Given the use of bare assertion for supporting argumentation in the rejection of claim 47, the Office Action has failed to support a prima facie case of obviousness for claim 47. Consequently, it is believed that claim 47 stands in condition for allowance.

b. Arguments Subheading II - B. Independent Claims 52, 53, and 54.

Claims 52, 53, and 54 were rejected, according to the Office Action, "on grounds corresponding to the arguments given above for rejected claims 33 and 47 and are similarly rejected." Since the arguments by the Office Action in rejecting claim 33 and claim 47 used bare assertion involving inaccurate representation of the content of Smith, Beck, and Desai and an unqualified opinion regarding a proposed suggestion to combine Smith, Beck, and Desai as discussed above, the arguments of the Office

Action regarding claim 33 and claim 47 have similarly failed to support a prima facie case of obviousness to reject claims 52, 53, and 54.

c. Arguments Subheading II - C. Independent Claim 55.

Claim 55 was rejected, according to the Office Action, "on grounds corresponding to the arguments given above for rejected claims 33 and 47 and [is] similarly rejected." Since the arguments by the Office Action in rejecting claim 33 and claim 47 used bare assertion involving inaccurate representation of the content of Smith, Beck and Desai and an unattested opinion regarding a proposed suggestion to combine Smith, Beck and Desai as discussed above, the arguments of the Office Action regarding claim 33 and claim 47 have similarly failed to support a prima facie case of obviousness to reject claim 55.

Furthermore, claim 55 includes the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to resize web content objects to be added during survey creation. The Applicants could not find anywhere in Smith and/or Beck and/or Desai where this was suggested or taught, so claim 55 is believed to be allowable for this additional reason.

d. Arguments Subheading II - D. Independent Claim 57.

Claim 57 was rejected, according to the Office Action, "on grounds corresponding to the arguments given above for rejected claims 33 and 47 and [is] similarly rejected." Since the arguments by the Office Action in rejecting claim 33 and claim 47 used bare assertion involving inaccurate representation of the content of Smith, Beck, and Desai and an unattested opinion regarding a proposed suggestion to combine Smith, Beck and Desai as discussed above, the arguments of the Office Action regarding claim 33 and claim 47 have similarly failed to support a prima facie case of obviousness to reject claim 57.

Furthermore, claim 57 includes the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to select progress bars to be added by the survey creation engine. The Applicants do not

believe the mere processing of results is similar to selecting progress bars and could not find anywhere in Smith and/or Beck and/or Desai where this was suggested or taught, so claim 57 is believed to be allowable for this additional reason.

e. Arguments Subheading II - E. Independent Claim 58.

Claim 58 was rejected, according to the Office Action, "on grounds corresponding to the arguments given above for rejected claims 33 and 47 and [is] similarly rejected." Since the arguments by the Office Action in rejecting claim 33 and claim 47 used bare assertion involving inaccurate representation of the content of Smith, Beck, and Desai and an unattested opinion regarding a proposed suggestion to combine Smith, Beck, and Desai as discussed above, the arguments of the Office Action regarding claim 33 and claim 47 have similarly failed to support a prima facie case of obviousness to reject claim 58.

Furthermore, claim 58 includes the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to perform survey background design. The Applicants could not find anywhere in Smith and/or Beck and/or Desai where this was suggested or taught, so claim 58 is believed to be allowable for this additional reason.

f. Arguments Subheading II - F. Independent Claim 59.

Claim 59 was rejected, according to the Office Action, "on grounds corresponding to the arguments given above for rejected claims 33 and 47 and [is] similarly rejected." Since the arguments by the Office Action in rejecting claim 33 and claim 47 used bare assertion involving inaccurate representation of the content of Smith, Beck and Desai and an unqualified opinion regarding a proposed suggestion to combine Smith, Beck and Desai as discussed above, the arguments of the Office Action regarding claim 33 and claim 47 have similarly failed to support a prima facie case of obviousness to reject claim 59.



Furthermore, claim 59 includes the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to select font of text used of a survey created by the survey creation engine. The Applicants could not find anywhere in Smith, including Figure 3 – sheet 4 of 11, and/or Beck and/or Desai where this was suggested or taught, so claim 59 is believed to be allowable for this additional reason.

g. Arguments Subheading II - G. Independent Claim 60.

Claim 60 was rejected, according to the Office Action, “on grounds corresponding to the arguments given above for rejected claims 33 and 47 and [is] similarly rejected.” Since the arguments by the Office Action in rejecting claim 33 and claim 47 used bare assertion involving inaccurate representation of the content of Smith, Beck, and Desai and an unqualified opinion regarding a proposed suggestion to combine Smith, Beck, and Desai as discussed above, the arguments of the Office Action regarding claim 33 and claim 47 have similarly failed to support a prima facie case of obviousness to reject claim 60.

Furthermore, claim 60 includes the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to select color scheme of a survey created by the survey creation engine. The Applicants could not find anywhere in Smith and/or Beck and/or Desai where this was suggested or taught, so claim 60 is believed to be allowable for this additional reason.

iii. Conclusion of Arguments Headings I and II

As discussed above, the art of record, namely, the first combination of Smith in view of Beck and the second combination of Smith in view of Beck and further in view of Desai, does not contain sufficient teaching to render obvious to one of ordinary skill in the art at the time of the invention the pending independent claims, namely, claims 33, 47, 52 – 55, and 57 - 60 and consequently, does not render the dependent claims 34 – 46, 48 – 51, and 56 obvious either.

Consequently, it is believed that the Applicants' patent application has been used as a template to piece references together in an attempt to reject the pending claims and that this attempt fails because these references do not lend themselves to be combined or modified with each other to read on the claimed invention. In addition these references have been misread, such as Smith allegedly containing an e-mail list management facility configured to provide management capability through the network browser of the survey design machine of a list of e-mail recipients chosen to receive an e-mail associate with a survey, the list being stored on the host machine, the e-mail containing a link to provide access to the survey for the client computer, to force them to read on the claimed invention.

Accordingly, insofar as that the only objectively verifiable teachings of record showing the alleged motivation to modify and/or combine reside in Applicants' patent application, it follows that the Office Action has used Applicants' patent application as a template by which to piece together the related art to reach Applicants' claims at issue. As set forth above, under the M.P.E.P. standards this is impermissible hindsight. As discussed above, all the pending independent claims (claims 33, 47, 52 – 55, and 57 – 60) are believed to be allowable. The pending dependent claims (claims 34 – 46, 48 – 51, and 56) are also believed to be allowable, based at least in part upon their dependencies.

## VIII. CLAIMS APPENDIX

33. (Previously Presented) A system for use with a network, the system comprising:

a database;

a host machine having a processor, a database interface configured to access the database, a network interface configured to provide access to the network, and a survey creation engine configured to create surveys, the database configured to store the created surveys;

a survey design machine having a network interface configured to provide access to the network and a network browser configured to communicate with the survey creation engine via the network to allow a user of the survey design machine to create a survey through the survey creation engine of the host machine; and

an e-mail list management facility configured to provide management capability through the network browser of the survey design machine of a list of e-mail recipients chosen to receive an e-mail associated with a survey, the list being stored on the host machine, the e-mail containing a network link to provide access to the survey for the client computer via network protocols other than mail protocols.

34. (Previously Presented) The system of claim 33 wherein the network interfaces of the host machine and the survey design machine are configured to access the Internet.

35. (Previously Presented) The system of claim 33 wherein the host machine further includes a server process configured to send a created survey stored in the database through network protocols other than mail protocols to a client machine accessing the host machine via the network through a network browser.

36. (Previously Presented) The system of claim 35 wherein the server process is further configured to receive from the client machine through network protocols other than mail protocols a response to the created survey.

37. (Previously Presented) The system of claim 36 wherein the database is further configured to store the response received by the host machine from the client machine.

38. (Previously Presented) The system of claim 37 wherein the server process of the host machine is further configured to provide access to the response stored in the database for the network browser of the survey design machine.

39. (Previously Presented) The system of claim 37 wherein the server process is further configured to compile an analysis of the response in conjunction with other responses received by the host machine and wherein the server process is further configured to provide access to the analysis for the network browser of the survey design machine.

40. (Previously Presented) The system of claim 37 further comprising a survey reporting machine configured to download the response stored in the database into a spreadsheet program.

42. (Previously Presented) The system of claim 33 wherein the network link of the e-mail is a universal resource locator (URL).

43. (Previously Presented) The system of claim 33 wherein the database of the host is configured to store web content objects associated with the stored surveys.

44. (Previously Presented) The system of claim 33 wherein the database is configured to provide password protected access to stored surveys and responses to surveys.

45. (Previously Presented) The system of claim 33 wherein the survey creation engine includes a wizard process configured to provide automated guidance in survey creation.

46. (Previously Presented) The system of claim 33 wherein the survey creation engine includes templates of exemplary surveys and is configured to provide to the network browser of the survey design machine at least one function configured to provide modification capability for tailoring of the exemplary surveys to match requirements of intended surveys.

47. (Previously Presented) A method comprising:  
using a survey creation engine of a host computer through a survey design computer via a network to create a survey;  
storing the survey on the host computer; and  
using the survey design computer via the network to edit a list of e-mail recipients stored on the host computer and sending an e-mail to recipients designated in the list of e-mail recipients, the e-mail containing a network link to the host computer for client computers receiving the e-mail to access the survey stored on the host computer via network protocols other than mail protocols.

48. (Previously Presented) The method of claim 47 further comprising editing a list of e-mail recipients stored on the host computer from the survey design computer via the network and sending an e-mail to recipients designated in the list of e-mail recipients, the e-mail containing a network link to the host computer for client computers receiving the e-mail to access the survey stored on the host computer via network protocols other than mail protocols.

49. (Previously Presented) The method of claim 47 wherein using the survey creation engine includes selecting a template of a pre-defined survey and modifying the template based upon requirements of a presently intended survey.

50. (Previously Presented) The method of claim 47 wherein using the survey creation engine includes using a wizard to receive guidance on creation of the survey.

51. (Previously Presented) The method of claim 47 further comprising receiving responses on the host computer from client computers via network protocols other than mail protocols, analyzing the responses to generate an analysis, storing the analysis on the host computer and accessing the analysis from the survey design computer via the network.

52. (Previously Presented) A system for use with a network, the system comprising:

a database;

a host machine having a processor, a database interface configured to access the database, a network interface configured to provide access to the network, and a survey creation engine configured to create surveys, the database configured to store the created surveys;

a survey design machine having a network interface configured to provide access to the network and a network browser configured to communicate with the survey creation engine via the network to allow a user of the survey creation machine to create a survey through the survey creation engine of the host machine; and

an e-mail list management facility configured to provide management capability through the network browser of the survey design machine of a list of e-mail recipients chosen to receive a survey.

53. (Previously Presented) A method comprising:

using a survey creation engine of a host computer through a survey design computer via a network to create a survey;

storing the survey on the host computer;

storing a list of e-mail addresses on the host computer; and

initiating transmission of an e-mail to the e-mail addresses of the list of e-mail addresses from the survey design computer via the network, the e-mail containing a network link to the host computer for client computers receiving the e-mail to access the survey.

54. (Previously Presented) A method comprising:

using a survey creation engine of a host computer through a survey design computer via a network to create a survey;

storing the survey on the host computer;

storing a list of e-mail addresses on the host computer; and

initiating transmission on an e-mail to the e-mail addresses of the list of e-mail addresses from the survey design computer via the network, the e-mail containing a network link to the host computer for client computers receiving the e-mail to access the survey.

55. (Previously Presented) A system for use with a network, the system comprising:

a database;

a host machine having a processor, a database interface configured to access the database, a network interface configured to provide access to the network, and a survey creation engine configured to create surveys, the database configured to store the created surveys; and

a survey design machine having a network interface configured to provide access to the network and a network browser configured to communicate with the survey creation engine via the network to allow a user of the survey creation machine to create a survey through the survey creation engine of the host machine, the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to resize web content objects to be added during survey creation.

56. (Previously Presented) The system of claim 55 wherein the web content objects include e-mail invitation templates.

57. (Previously Presented) A system for use with a network, the system comprising:

a database;

a host machine having a processor, a database interface configured to access the database, a network interface configured to provide access to the network, and a survey creation engine configured to create surveys, the database configured to store the created surveys; and

a survey design machine having a network interface configured to provide access to the network and a network browser configured to communicate with the survey creation engine via the network to allow a user of the survey creation machine to create a survey through the survey creation engine of the host machine, the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to select progress bars to be added by the survey creation engine.

58. (Previously Presented) A system for use with a network, the system comprising:

a database;

a host machine having a processor, a database interface configured to access the database, a network interface configured to provide



access to the network, and a survey creation engine configured to create surveys, the database configured to store the created surveys; and

a survey design machine having a network interface configured to provide access to the network and a network browser configured to communicate with the survey creation engine via the network to allow a user of the survey creation machine to create a survey through the survey creation engine of the host machine, the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to perform survey background design.

59. (Previously Presented) A system for use with a network, the system comprising:

a database;

a host machine having a processor, a database interface configured to access the database, a network interface configured to provide access to the network, and a survey creation engine configured to create surveys, the database configured to store the created surveys; and

a survey design machine having a network interface configured to provide access to the network and a network browser configured to communicate with the survey creation engine via the network to allow a user of the survey creation machine to create a survey through the survey creation engine of the host machine, the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to select font of text used of a survey created by the survey creation engine.

60. (Previously Presented) A system for use with a network, the system comprising:

a database;

a host machine having a processor, a database interface configured to access the database, a network interface configured to provide

access to the network, and a survey creation engine configured to create surveys, the database configured to store the created surveys; and

a survey design machine having a network interface configured to provide access to the network and a network browser configured to communicate with the survey creation engine via the network to allow a user of the survey creation machine to create a survey through the survey creation engine of the host machine, the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to select color scheme of a survey created by the survey creation engine.

## IX. EVIDENCE APPENDIX

None.

## X. RELATED PROCEEDINGS APPENDIX

None.

Respectfully submitted,  
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